

REMARKS

Claims 8, 10, 18, 22 and 28 are amended. Claims 11-13, 15, 19 and 26 are cancelled. Claims 8-10, 14, 16-18, 20-25 and 27-29 are pending in the application.

Claims 8-29 stand rejected under 35 U.S.C. § 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor had possession of the claimed invention at the time the application was filed. The Examiner indicates that independent claims 8, 10, 18, 22 and 28 are not sufficiently supported by the specification since such recite "at least nucleotides 1823-2147 of SEQ ID NO.:8". The Examiner indicates that such recitation is not literally or figuratively supported by the specification. Without admission as to the propriety of the Examiner's rejection, each of independent claims 8, 10, 18, 22 and 28 are amended to recited a promoter sequence comprising at least nucleotides 486-2147 of SEQ ID NO.:8.

The amendment of the independent claims and the recited sequence comprising at least nucleotides 486-2147 is supported by the specification at, for example, page 10, lines 22-25, which indicates the 1662 base pairs of the sequence located between nucleotide 485 and nucleotide 2148 (corresponding to segment 486-2147) as being the promoter sequence of SEQ ID NO.:8. As shown in Fig. 4 the final three nucleotides (2148-2150) correspond to the initiation codon and accordingly is within the transcribed portion of the glucoamylase gene. Accordingly, the recited promoter sequences comprising at least nucleotides 486-2147 of SEQ ID NO.:8 is fully supported by the specification and reasonably conveys to one skilled in the art that the inventor had possession of the claimed invention at the time the application was filed. Applicant therefore respectfully requests

withdrawal of the § 112, first paragraph, rejection of independent claims 8, 10, 18, 22 and 28 in the Examiner's next action.

Dependent claims 11-13, 15, 19 and 26 are cancelled. The Examiner indicates at page 4 of the present Action that dependent claims 9, 14, 16-17, 20-21, 23-25, 27 and 29 are included in the rejection only because they encompass subject matter as recited in the corresponding independent claims. As indicated above, claims 8, 10, 18, 22 and 28 comply with the requirements of § 112, paragraph 1. Dependent claims 9, 14, 16-17, 20-21, 23-25, 27 and 29 are therefore also in compliance with § 112, first paragraph.

As indicated at page 5 of the present Action, the art of record fails to teach or suggest the subject matter of the pending claims. Accordingly, pending claims 8-10, 14, 16-18, 20-25 and 27-29 are in condition for immediate allowance. Applicant therefore respectfully requests formal allowance of such pending claims in the Examiner's next action.

Respectfully submitted,

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By:

Jennifer J. Taylor
Jennifer J. Taylor, Ph.D.
Reg. No. 48,711